

FILED 5/19/10

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF OREGON
EUGENE DIVISION

GARY SHEPPARD,

Plaintiff,

Civil No. 09-537-AA

v.

ORDER

LT. DAVIDSON, et al.,

Defendants.

AIKEN, District Judge.

Plaintiff's *pro se* complaint alleges that defendants violated his constitutional rights while he was a pre-trial detainee in the Klamath County Jail.

On March 25, 2010, defendants filed a Motion for Summary Judgment(#17) which was taken under advisement by the court on May 10, 2010. See, docket entry, April 6, 2010.

On February 2, 2010, the court sent plaintiff a "Summary Judgment Advice Notice" advising him of the federal summary judgment standard and rules. However, plaintiff has not filed a response to defendants' motion or requested an extension of time in which to do so.

Defendants' un-controverted exhibits including the Declaration of Charles E. Bolen (#25) and supporting exhibits.¹ the Declaration of Linda M. Terpening (#21), and the Declaration of Lt. Jeanette Davidson (#22), establish the following:

1. Defendants were not deliberately indifferent to plaintiff's serious medical needs and afforded plaintiff constitutionally adequate medical care.

2. Defendants did not violate plaintiff's clearly established constitutional rights and are entitled to qualified immunity from any liability to plaintiff.

3. Plaintiff has failed to establish claim under the Oregon Tort Claims Act because he failed to comply with the notice provision of ORS 30.275(2)(b), failed to sue the proper defendant, and failed to controvert defendants' evidence that he received appropriate care that exceeded the requisite standard of care.

4. Plaintiff failed to file grievances or exhaust administrative remedies with respect to his claims.

5. Plaintiff failed to establish a constitutional claim regarding the grievance system at the Klamath County Jail.

I find that there are no genuine issues of material fact remaining in this case and that defendants are entitled to


¹Including Defendants' First Request for Admissions which plaintiff did not respond to and are deemed admitted.

judgment as a matter of law.

Defendants' Motion for Summary Judgment (#17) is allowed.
This action is dismissed.

IT IS SO ORDERED

DATED this 19 day of May, 2010.



Ann Aiken
United State District Judge